

“The Future of the NPT” – Remarks by Paul Meyer, Former Ambassador of Canada to the UN and Conference of Disarmament – Geneva; to the Conference on Security & Cooperation in South Asia (MIT/BAKS) – Oct 8-10, Berlin, Germany

Thank you and I am very pleased to be participating in this conference focused on arms control and security issues in South Asia, a very relevant, dare I say “hot” topic for the international security environment. At the outset let me specify that the opinions I will be expressing are purely my own and do not necessarily represent the views of the Department of Foreign Affairs and International Trade of Canada.

I have been asked to speak about the future of the Nuclear Non-proliferation Treaty, the NPT and I would like to be able to say that it has a bright, even radiant, future ahead of it. I am obliged however to acknowledge that there are several dark clouds currently obscuring the sunshine around the NPT and if these continue to build up – the future viability of the NPT and the major international security dividends it has paid, becomes more problematic. Perhaps the natural imagery, while colourful, is not the best one to employ with respect to the NPT, because it is a manmade covenant and its problems can be remedied or exacerbated by the action, or inaction, of its member states.

To give you the essence of my appreciation of the NPT, the executive summary if you will, it is that the NPT is a crucial framework for international security, but is facing serious difficulties and will require its members to demonstrate that they are taking the treaty seriously by undertaking urgent remedial action to ensure its future authority and effectiveness.

The NPT, which entered into force 37 years ago, is arguably the most important and most widely adhered to international security agreement. With 190 states parties, the treaty is at the core of the international non-proliferation regime that has severely restricted the spread of nuclear weapons, provided the legal basis for their elimination and permitted the development of peaceful uses of nuclear energy under strict international monitoring.

The NPT dealt with the challenge posed by nuclear weapons and nuclear energy via a tripartite “Grand Bargain”. The first part of the bargain called for the Non-Nuclear Weapon States to forswear the right to ever acquire nuclear weapons. It also prohibited the Nuclear Weapons States from providing such weapons to other states. The second part of the bargain required the NWS “to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament”. The third part of the bargain acknowledged the right of all to use nuclear energy for peaceful purposes. One should recall that at the time the NPT was negotiated, nuclear energy was already viewed as a double-edged sword: on one hand the source of weapons of unprecedented destructiveness that had to be constrained and ultimately eliminated, and yet on the other, a potent

tool for the scientific, technological and economic development of states. This fundamental tripartite bargain remains at the heart of the NPT and is crucial to an understanding of the pressures that the NPT has been subjected to in trying to reconcile its contending imperatives. There remains a basic concern that if this balance - between rights and obligations, between non-proliferation and disarmament and between free access to nuclear energy for peaceful purposes and ensuring that such uses remain so - is ever overturned, the whole structure of the NPT could collapse.

For all its past accomplishments, it is necessary to recognise that the Treaty is currently under great strain, including major challenges to its authority posed both from within and without the NPT. The covert nuclear weapons programs pursued by Iraq, Libya and the DPRK, while they were states parties to the Treaty, sent shock waves throughout the regime and demonstrated the danger that NPT adherence could be used as a respectable mantle under which a state could embark upon activity diametrically opposed to the Treaty's fundamental obligations. The DPRK in its announced withdrawal from the Treaty in 2002 set a disturbing precedent and demonstrated how low the bar was to withdrawal as set out in Article X of the Treaty and how vulnerable the accord was to misuse of this provision.

Challenges to the NPT from without, included the revelations of the nuclear black market centred on Pakistan's AQ Khan and the apparent ineffectiveness of state control measures to prevent this sort of private entrepreneurship. The continued refusal of India, Pakistan and Israel to adhere to the NPT remained a major challenge to the nearly "in sight" goal of universalisation of the treaty – a challenge that became all the more serious with the blatant rupture of the non-proliferation norm with the 1998 nuclear explosive tests in South Asia.

Beyond these concerns regarding specific states, there were also basic problems in sustaining the "Grand Bargain" at the heart of the NPT: in particular, the proper inter-relationship between the non-proliferation norm of the Treaty and its two other key "pillars" - disarmament and peaceful uses of nuclear energy. On nuclear disarmament, many NNWS believed that the Nuclear Weapon States were renegeing on their disarmament commitments agreed to by consensus in the decisions of the 1995 NPT Review and Extension Conference and the 2000 NPT Review Conference, which had enumerated the so-called "13 Steps" for specific disarmament action. Implementation has been lacking on a series of key commitments: entry into force of the CTBT, initiation of negotiations for a FMCT, early entry into force of START II and conclusion of the follow-on START III, application of the principle of irreversibility to reductions, increased transparency, agreed measures to reduce the operational status of nuclear systems, completion of the Trilateral Initiative for the placement of surplus fissile material under international safeguards, regular reporting within NPT framework on implementation of Art VI, and a diminished role for nuclear weapons in security policies. Small wonder that many see this failure on the part of the NWS as indicative of a broader policy shift away from the disarmament obligations of the NPT at a time when these same states are all the

more insistent that the NNWS adhere strictly to the non-proliferation responsibilities of the Treaty.

A similar dynamic is evident regarding the peaceful uses of nuclear energy “pillar” wherein NNWS are concerned that their rights under Art IV of the NPT are being increasingly restricted and ever more demands placed on them. It has become challenging for the IAEA, the agency mandated to maintain a safeguards system pursuant to Art III of the NPT, to get the diplomatic and financial support necessary for the Agency to achieve a high standard of assurance that no proscribed nuclear activity is occurring in NPT states parties. The Additional Protocol that was developed a decade ago to provide IAEA inspectors with greater authority and capacity to monitor nuclear activity is still only in force in 80 states (a minority of NPT members). Some 30 states parties have yet to fulfill the basic requirement of membership – namely, to conclude a Comprehensive Safeguards Agreement with the IAEA.

Finally, the NPT suffers from what has been termed an “institutional deficit” with respect to its own procedures and supporting mechanisms. This central treaty regulating global nuclear affairs lacks the basic infrastructure that characterizes contemporary multilateral accords. There are no annual meetings of states parties, no Executive Council or governing body, no secretariat, no provision for emergency gatherings of the membership and no authoritative decision-making mechanisms between the five-yearly Review Conferences. The IAEA has important duties pursuant to Art III of the Treaty, but its responsibilities stop there and it has no mandate to monitor implementation of the other provisions of the NPT. All in all a very incomplete and shaky base on which to support this complex and demanding superstructure.

Taken together, these challenges to the NPT are formidable and cry out for redress. It would be a great pity if the security benefits of the NPT were wasted due to complacency on the part of its members. Despite the continuing prominence of nuclear weapons and the dangers of their proliferation and potential use, the NPT itself and its associated regime of international regulation and restraint is receiving scant attention. I believe that prompt and purposeful action by concerned states can still reverse the fading fortunes of the NPT. This will require first and foremost the states parties taking their treaty seriously and showing that it is a treaty they are willing to fight for. What would a strategy to repair the problems of the NPT look like? In my opinion, it would have to address each of the following four areas of difficulty: i) the stagnation of nuclear disarmament efforts, ii) the non-proliferation – peaceful-use tension, iii) the institutional deficit and iv) the universalisation objective. I will take each of these up in turn and offer some concrete proposals for remedial action.

Nuclear Disarmament: There is a pressing need to revive multilateral, bilateral and unilateral action in favour of disarmament. The priority tasks agreed in 1995 and 2000 need to be realised or the credibility of the Art VI commitment will be fatally eroded. This will require a renewed

press on the 10 states which are preventing the entry into force of the Comprehensive Test Ban Treaty. The elimination of nuclear explosive testing anywhere at any time is a basic step towards meeting the non-proliferation and disarmament goals of the Treaty. The CTBT's conclusion was a necessary condition for the indefinite extension of the Treaty in 1995 and the continued dithering and delay on bringing it fully into force is an affront to the hopes and values of the vast majority of the global community.

The initiation of negotiations on an FMCT (a treaty to prohibit the production of fissile material for nuclear weapons or other nuclear explosive devices) is another key commitment of the NPT membership that cannot be allowed to remain unfulfilled. The NPT at its Review Conferences of 1995 and 2000 tasked the Conference on Disarmament with the immediate commencement of negotiations of an FMCT. More than a decade later the CD has failed to move beyond square one of this endeavour. It is imperative that these negotiations get underway and a modicum of diplomatic creativity and energy be expended to achieve this. The old excuses and prevarications are unacceptable and those possessing fissile material for weapons purposes must be held to account for their refusal to honour their obligations under the Treaty or to the international community which has been calling for an FMCT for half a century. While these two multilateral treaties have particular significance within the NPT framework, there are many steps of a plurilateral, bilateral or unilateral nature that states parties have pledged themselves to undertake. These include: action to reduce the operational status of nuclear weapons systems, so-called 'de-alerting'; the formulation of bilateral agreements to further Russian-American reductions, post START I and SORT, and ensuring that the NPT principles of irreversibility, transparency and verifiability apply and even the modest gesture of officially reporting on their progress in fulfilling their Art VI commitments to the rest of the NPT membership pursuant to step 12 of the 13 Practical Steps.

Non-proliferation vs. Peaceful Use: There will probably never be a friction-free relationship between these two core principles of the NPT. To maximize non-proliferation certainties, one would have to eliminate peaceful uses of nuclear energy, and to optimize such use in the absence of effective controls would be to run an unacceptable risk of proliferation. The answer must lie somewhere in between. In my view, it consists of seriously strengthening the IAEA's capacity to carry out successfully its verification role while promoting the responsible use of nuclear energy for peaceful purposes. This strategy would make the Additional Protocol mandatory as the contemporary standard for the international safeguards system and as a condition of nuclear supply. It would also entail that the IAEA receive the necessary political and funding support to enable it to fulfill effectively the crucial monitoring tasks it has been given by its membership. There should also be a dedicated push to develop a multilateral system for assured supplies of nuclear fuel to states that meet agreed IAEA non-proliferation criteria. Having such a system in place would remove one of the principal motivations for a

state to pursue an indigenous enrichment or reprocessing capability and should help prevent the type of crisis over ultimate intentions that has surrounded Iran in recent years.

Overcoming the Institutional Deficit: It is necessary for the NPT members to upgrade the level and nature of the NPT's governance and procedures. Given the nuclear crises that dominate our media and capitals on a daily basis, it is passing strange to say the least that the NPT membership did not hold a single official meeting in 2006. The three preparatory committee meetings that are scheduled in the 2007-2009 timeframe are limited to preparations for the next Review Conference in 2010 and do not take decisions in their own right. It is high time that the NPT members devote at least one week each year to an annual meeting of states parties, fully authorized to consider matters relevant to the Treaty and to take whatever decisions they can agree on. A small standing bureau of diplomats should be elected (perhaps five representing each of the five regional groups of the UN) at each Review Conference with a five year mandate until the next Review Conference and to act as representatives and custodians of the Treaty and provide some minimum institutional continuity. Such a standing bureau could also be empowered to convene emergency meetings of the membership in situations that pose a serious threat to the NPT's integrity (for example a notification of withdrawal from the Treaty). States parties to the NPT should also commit to submitting annual reports on their Treaty implementation as a positive act of engagement in the NPT's well-being and as a factual input to the envisaged annual meetings. These are practical, low-cost steps that would serve to provide essential support for the NPT and to demonstrate its value to the membership at large.

Universalisation: NPT states parties have regularly affirmed the goal of universalisation of the treaty and as earlier mentioned, no other international security treaty can claim greater adherence. At the same time, three states, arguably four if you count the DPRK, remain outside the NPT. Many states would welcome a *rapprochement* between these non-parties and the rest of the NPT membership. The question remains on whose terms? Should the 190 states parties move to accommodate the three or should it rather be the other way around. It would seem necessary to ensure that the distinction between parties and non-parties to the NPT be retained or the Treaty would lose some of its significance. One of the principal criticisms of the US-India nuclear deal is that it offers a non-party to the NPT, a similar level of cooperation to that enjoyed by states parties without the comprehensive legal obligations that go with NPT membership. What will be the impact on non-nuclear weapon states party to the NPT, which have played by the rules and accepted far-reaching constraints and required submission to external scrutiny? Will a perception grow that NPT adherence is optional and that if a country engages in a nuclear program outside its bounds, leading global powers will eventually afford it all the consideration and cooperation that hitherto has been the preserve of NPT members? It will be important to reflect on the consequences of this initiative for the health of the non-

proliferation regime. Any cooperation extended to non-parties to the NPT should be based on agreed criteria informed by NPT aims and not on “country specific” deals subject to all the vagaries of shifting political relationships.

To conclude, I believe that the future health of the NPT cannot be taken for granted. This fundamental treaty merits the sustained engagement of its membership and an action plan to restore its vitality and authority as a crucial foundation for international security in the years to come.

Thank you for your attention.